

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1107 OF 2005
WITH
CIVIL APPLICATION NO.1360 OF 2005

Vishwanath Krashna Sakhare & anr. ..Appellants.

Vs.

Chandrakant Govind Sakhare & Ors. ..Respondents.

....

Mr.R.V.More for the Appellants.

Mr.N.V.Bandiwadekar for Respondent No.2.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

20th December, 2005.

P.C. :

The Trial Court has declined to vacate an order of injunction at the behest of the Second Defendant. The wife of the Second Defendant is stated to have been given a letter of intent by Bharat Petroleum Corporation Limited on 10th June, 2005 for conducting a retail outlet. According to

the Trial Court, there was no change in circumstances after the order since the letter of allotment had been issued even prior to the earlier order. At the hearing of this Appeal, the First Appellant has filed an affidavit stating that his son, the Second Appellant is a party to the present litigation and that old Survey No.296/A/1B (New Survey NO.303) stands in the name of the Second Appellant and his wife. The aforesaid piece of land admeasures 21 gunthas. BPCL has granted a letter of intent to the Second Appellant's wife for which 12 gunthas of land is required. The Appellants have stated that the remaining land would be kept vacant and there shall be a frontage to the road available for the remaining land as well. It has also been stated that in the event Special Civil Suit 197 of 2000 is allowed, the Appellants are ready to compensate the original Plaintiff in accordance with the market value prevailing at the time of the order of the Court. It has also been stated that an affidavit by way of undertaking of the Second Appellant and his wife would be submitted before this Court. In my view, it would be appropriate if the Appellants are permitted to file a fresh application before the

Trial Court. The Appellants shall be at liberty to do so within a period of one week from today. The Learned Trial Judge shall expedite the disposal of the application and endeavour to do so preferably within a period of four weeks thereafter.

It is needless to add that the fresh application to be filed by the Appellants shall be disposed of by the Trial Court on its own merits.

In view of the disposal of the Appeal from Order, the Civil Application is disposed of.